

Message Text

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ORIGIN SS-14

INFO OCT-01 ISO-00 SSO-00 NSCE-00 RSC-01 /016 R

66631

DRAFTED BY:S/S-S:PHBLAKEBURN

APPROVED BY:S/S:SGAMMON

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P 102055Z SEP 73

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FOL TEL SENT ACTION ALL OECD CAPITALS, OECE PARIS, EC BRUSSELS,
BRASILIA, ATHENS, JIDDA, KUWAIT, TEHRAN, ABU DHABI, ALGIERS,
TUNIS, LAGOS, JAKARTA, CARACAS, CAIRO, QUITO, RIO DE JANEIRO,
TRIPOLI FROM STATE 07 SEP 73 REPEATED TO YOU

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E.O. 11652- N/A

TAGS: ENRG

SUBJECT: OIL COMPANY STATEMENT ON LIBYAN NATIONALIZATION

1. FOLLOWING FYI IS TEXT OF STATEMENT RELEASED 0930
SEPTEMBER 7 BY OIL COMPANIES SUBJECT TO 51 PERCENT LIBYAN
NATIONALIZATION: QUOTE LIBYAN NATIONALIZATION -- THE
AFFILIATES IN LIBYA OF SIX INTERNATIONAL OIL COMPANIES HAVE
IN ACCORDANCE WITH TERMS OF THEIR CONCESSION AGREEMENTS
PROTESTED THE PURPORTED NATIONALIZATION ON SEPTEMBER 1 OF
51 PERCENT OF THEIR INTERESTS BY THE LIBYAN GOVERNMENT.
THEY HAVE TAKEN OR ARE TAKING STEPS CALLING FOR ARBITRATION
OF THE MATTER. THE COMPANIES ARE ATLANTIC RICHFIELD,
EXXON, MOBIL, ROYAL DUTCH SHELL, STANDARD OIL OF
CALIFORNIA AND TEXACO. NEGOTIATIONS ON BEHALF OF THE
COMPANIES HAVE BEEN CONDUCTED WITH THE LIBYAN GOVERNMENT
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FOR MANY MONTHS IN AN ATTEMPT TO REACH AN AGREEMENT

PROVIDING FOR GOVERNMENT PARTICIPATION IN THE OWNERSHIP AND OPERATION OF THEIR LIBYAN AFFILIATES. THE COMPANIES' PROPOSALS WERE CONSISTENT WITH THE AGREEMENTS RECENTLY CONCLUDED WITH THE FOUR GULF STATES AND IRAN AND NIGERIA. THESE AGREEMENTS WERE DESIGNED TO PROMOTE THE STABILITY OF LONG-TERM SUPPLY OF PETROLEUM MOVING IN INTERNATIONAL TRADE AT PREDICTABLE COST. DURING THE LIBYAN NEGOTIATIONS THE COMPANIES SHOWED FLEXIBILITY WITH RESPECT TO INDIVIDUAL TERMS SO LONG AS THE OVER-ALL PACKAGE WAS FINANCIALLY COMPARABLE WITH THE GENERAL AGREEMENT ON PARTICIPATION IN THE GULF AND WITH THE AGREEMENTS REACHED WITH IRAN AND NIGERIA. THE GOVERNMENT OF LIBYA HOWEVER CONSISTENTLY REJECTED THE COMPANIES' PROPOSALS AND DEMANDED THAT THE COMPANIES AGREE UNDER THREAT OF NATIONALIZATION TO SUBSTANTIALLY MORE ONEROUS ARRANGEMENTS. THE LIBYAN GOVERNMENT BY ITS DECREE ANNOUNCED ON SEPTEMBER 1, 1973, HAS TAKEN UNILATERAL ACTION WHICH PURPORTS TO NATIONALIZE 51 PERCENT OF THE ASSETS AND CONCESSIONARY INTERESTS OF THE COMPANIES' AFFILIATES IN LIBYA. INCLUDED IN THE DECREE ARE TERMS BY WHICH THE LIBYAN GOVERNMENT PURPORTS TO:

1. ACQUIRE RIGHTS TO 51 PERCENT OF ALL OF THE PRODUCTION OF HYDROCARBONS FROM EACH OF THE COMPANIES' CONCESSIONS,
2. ESTABLISH A THREE MEMBER COMMITTEE TO MANAGE EACH COMPANY BY MAJORITY RULE. TWO MEMBERS OF THE COMMITTEE INCLUDING THE CHAIRMAN ARE APPOINTED BY THE GOVERNMENT,
3. REQUIRE THAT ALL EMPLOYEES OF THE COMPANIES REGARDLESS OF NATIONALITY SHALL CONTINUE TO PERFORM THEIR DUTIES AND THAT NONE MAY RESIGN HIS POSITION WITHOUT APPROVAL BY THE MANAGEMENT COMMITTEE,
4. STIPULATE PUNISHMENT BY FINE OR IMPRISONMENT FOR ANYONE COMMITTING AN OFFENSE IN CONTRADICTION OF ANY OF THE TERMS OF THE DECREE,
5. ESTABLISH A COMMITTEE TO BE SELECTED SOLELY BY THE

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GOVERNMENT TO SET THE LEVEL OF COMPENSATION.

2. THE COMPENSATION ASPECTS OF THE DECREE CLEARLY EMPHASIZE THE ARBITRARY AND CONFISCATORY NATURE OF THE LIBYAN GOVERNMENT ACTION. THE EXPERIENCE OF ENTERPRISES NATIONALIZED IN LIBYA PROVIDE LITTLE EVIDENCE THAT THE LIBYAN GOVERNMENT WOULD RESPECT THE RIGHTS

OF THE COMPANIES. THE COMPANIES INDIVIDUALLY HAVE TAKEN OR WILL TAKE STEPS TO INSTITUTE ARBITRATION PROCEEDINGS AGAINST THIS ACTION AS BEING CONTRARY TO EXISTING AGREEMENTS AND THE PRINCIPLES OF INTERNATIONAL LAW. IT IS ALSO CONTRARY TO LIBYAN LAW WHICH STATES 'THE CONTRACTUAL RIGHT EXPRESSLY CREATED BY THIS CONCESSION SHALL NOT BE ALTERED EXCEPT BY MUTUAL CONSENT OF THE PARTIES'.

3. THE COMPANIES ARE NOT WILLING TO ACCEPT TERMS IMPOSED UNILATERALLY IN CONTRAVENTION OF VALID AGREEMENTS AND TO WHICH THEY WERE NOT ABLE TO AGREE

IN NEGOTIATIONS. EACH COMPANY INDIVIDUALLY INTENDS TO TAKE SUCH STEPS AS IT DEEMS NECESSARY TO PROTECT ITS RIGHTS. IN THE EVENT THAT THE LIBYAN GOVERNMENT WERE TO CURTAIL PRODUCTION THE MAIN IMPACT WOULD BE A REDUCTION IN THE AVAILABILITY OF LOW SULPHUR FUEL OIL. ALTHOUGH CURRENT LIBYAN PRODUCTION BY THE COMPANIES AFFECTED REPRESENTS LESS THAN 3 PERCENT OF CRUDE OIL MOVING IN WORLD TRADE, ACQUIESCENCE BY THE COMPANIES TO THE LIBYAN GOVERNMENT'S DEMANDS WOULD REPRESENT A FAR GREATER PROBLEM THAN THAT CAUSED BY THE LIBYAN SUPPLY SITUATION. ITS IMPACT WOULD UNDOUBTEDLY HAVE ADVERSE REPERCUSSIONS ELSEWHERE. THE COMPANIES WISH TO MAKE IT CLEAR THAT THEY ARE PREPARED TO RESUME NEGOTIATIONS WITH THE LIBYAN GOVERNMENT TO REACH A MUTUALLY ACCEPTABLE AGREEMENT. END QUOTE RUSH UNQTE RUSH

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 10 SEP 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973STATE178332
Document Source: CORE
Document Unique ID: 00
Drafter: S:PHBLAKEBURN
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: n/a
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19730948/aaaabiyim.tel
Line Count: 145
Locator: TEXT ON-LINE
Office: ORIGIN SS
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: willialc
Review Comment: n/a
Review Content Flags:
Review Date: 27 AUG 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <27-Aug-2001 by reddocgw>; APPROVED <28-Jan-2002 by willialc>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: OIL COMPANY STATEMENT ON LIBYAN NATIONALIZATION
TAGS: ENRG
To: OECD PARIS MULTIPLE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005